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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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VENABLE LLP P.O. BOX 34385 WASHINGTON, DC 20043-9998			EXAMINER FOX, CHARLES A	
			ART UNIT 3652	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/580,031	Applicant(s) BUDNY ET AL.	
	Examiner Charles A. Fox	Art Unit 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 July 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 and 22-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 25 is/are allowed.
- 6) ☒ Claim(s) 1-20 and 22-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>20090723</u> . | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 112

Claims 6,7 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted elements are: the structure that will allow the arrangement to form a closed unit. Claim 6 is written such that only a handler , at least one reservoir and at least one filling/emptying device is present to form the unit. There is no way for this basic structure to form a closed unit as claimed without fencing elements. In the art rejections below the closed unit is treated as having a closed form of some sort such that an individual could not walk into the area where the automated handler is moving. Regarding claim 12 it is indefinite as to where the frame is located. Is it fixed to the trolley as in claim 7 or located elsewhere. In the rejections below this claim is treated as any pivotal plate which will fix the position of the trolley and the door relative to one another. Clarification is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,2,8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art in view of. Foster, Jr. Regarding claims 1 and 2 The admitted prior art (as outlined above) teaches an arrangement of a working area comprising:

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at least one reservoir;

a plurality of trays loaded into said at least one reservoir;

a handling robot for moving said trays;

at least one filling and emptying device for said trays;

wherein as many or as few of each element above may be used;

wherein the arrangement of the various device for a work cell. The admitted prior art does not teach placing the elements into a closed cell arrangement.

Foster, Jr. US 3,912,061 teaches a cell like work space comprising:

a working machine (12);

a plurality of fence elements (56) interconnecting with a wall (48) and other devices for forming a closed cell around a working device.

It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the cell arrangement taught by Foster, Jr. in the arrangement taught by the admitted prior art in order to handle rod like objects automatically is an area where workers are not stationed and are also segregated from moving equipment thereby increasing the safety of the work area.

Regarding claim 8 the at least one reservoir of the admitted prior art is also either stationary or movable.

Regarding claim 9 the admitted prior art also teaches that each reservoir holds at least one tray for the rod shaped articles within a compartment.

Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art and Foster, Jr. as applied to claim 1 above, and further in

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view of Hanada et al. The admitted prior art does not teach any particular structure to the reservoirs. Hanada et al. US 4,827,691 teaches a system for holding and transferring rod shaped articles comprising:

a trolley type reservoir (142) for holding a plurality of trays(F);

wherein said reservoir may move between a plurality of different work areas as needed. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by the admitted prior art with rolling reservoirs as taught by Hanada et al. in order to move surplus articles to a point in a production facility where they are needed and to move them from an area where they are not without requiring an operator to lift the trays.

Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art and Foster, Jr. as applied to claim 1 above, and further in view of Rosenquist. The admitted prior art does not teach any particular structure to the reservoirs and how they couple to a work cell. Rosenquist US 6,419,438 teaches a system for filling and emptying reservoirs comprising:

a plurality of interchangeable and transportable reservoirs(24);

said reservoirs having an inward side that orients towards a handling device;

said inward side having a closable opening;

said reservoir associated with a tray bay device (25);

wherein the reservoir couples to and decouples from the tray bay device such that the opening of the reservoir is opened to remove or place articles from or to the reservoir. It would have been obvious to one of ordinary skill in the art, at the time of

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invention to provide the arrangement taught by the admitted prior art and Foster, Jr. with reservoirs and a tray bay device as taught by Rosenquist in order to maintain the handling chamber in a sealed environment and to protect the objects being moved in the reservoirs from contamination during movement from one work area to another.

Claims 6,7 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art in view of. Foster, Jr. and further in view of Japanese Patent document 2003-193777 (herein JP). Regarding claims 6 and 7 The admitted prior art (as outlined above) teaches an arrangement of a working area comprising:

- at least one reservoir;

- a plurality of trays loaded into said at least one reservoir;

- a handling robot for moving said trays;

- at least one filling and emptying device for said trays;

- wherein as many or as few of each element above may be used;

wherein the arrangement of the various device for a work cell. The admitted prior art does not teach placing the elements into a closed cell arrangement.

Foster Jr. US 3,912,061 teaches a cell like work space comprising:

- a working machine (12);

- a plurality of fence elements (56) interconnecting with a wall (48) and other devices for forming a closed cell around a working device; Foster, Jr. does not teach a reservoir and an associated roll up door. JP teaches a rolling reservoir with an associated tray bay element fixedly attached to one side, wherein the tray bay element comprises a roll up door for opening and closing the reservoir a pivotal plate (10)

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mounted to the frame such that the trolley and the roll up door are fixed in place relative to one another.

It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the cell arrangement taught by Foster, Jr. in the arrangement taught by the admitted prior art in order to handle rod like objects automatically is an area where workers are not stationed and are also segregated from moving equipment thereby increasing the safety of the work area and to provide a closed trolley as taught by Jp in order to protect the contents of the reservoir from contamination during movement about the facility.

Claims 13-20,22 are rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art and Foster, Jr. as applied to claim 1 above, and further in view of Boucher, Jr. et al. The admitted prior art teaches the limitations of claim 1 as above as well as a conventional handling robot with a movable arm, they do not teach any particular structure to the gripping element. Boucher, Jr. Et al. teaches a material handling device with a gripping and holding device comprising:

- a conventional handling robot to which a gripping element is attached;

- a carrying element (62,64) attached to a linear drive mechanism;

- a holding element (16) for objects to be moved;

- said carrying element being two suction devices with at least two buffer elements thereon;

- wherein said suction elements can affix themselves to a smooth outer surface of an object such that the linear drive may push or pull the object;

wherein said holding element further has supporting elements (54 and 16a,16b);

wherein all supporting element are movable;

a pair of sensor elements (18) for determining the location of an object to be moved relative to the suction elements, said sensors facing the object to be moved. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the handler taught by the admitted prior art with a gripping device as taught by Boucher, Jr. et al. in order to pick up and move smooth sided objects without damaging them.

Claims 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art, Foster, Jr. and Boucher, Jr. et al. as applied to claim 14 above, and further in view of Hebels et al. The admitted prior art, Fields, Jr. et al. and Boucher, Jr. et al. teach the limitations of claim 14 as above, Boucher, Jr. et al. also teach a second fixing unit (64) , they do not teach a sensor for determining the status of the trays. Hebels et al. US 6,478,137 teaches a device for handing trays of rod shaped articles wherein the handler has a sensor (54) that can determine the fill status of a tray as well as determine the property of objects within the tray. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the handler taught by the admitted prior art with a sensor as taught by Hebels et al. in order to allow the device to automatically move trays only after they are ready thereby decreasing the chance of prematurely releasing the rod shaped articles into the manufacturing stream.

Response to Amendment

The amendments to the claims and specification have been entered into the record.

Allowable Subject Matter

Claim 25 is allowed for the reasons set forth in the previous office action.

The indicated allowability of claim 6 is withdrawn in view of the newly discovered reference(s) to JP. Rejections based on the newly cited reference(s) are presented above. The new art was presented by the applicant on an information disclosure statement filed on July 23, 2009.

Response to Arguments

Applicant's arguments with respect to claims 1 and 6 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's submission of an information disclosure statement under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) on July 23, 2009 prompted the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 609.04(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles A. Fox whose telephone number is 571-272-6923. The examiner can normally be reached on 7:00-4:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on 571-272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Charles A. Fox/

Primary Examiner, Art Unit 3652